

**PRESCRIPTION DATABASE REVISIONS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd Weiler**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Controlled Substance Database Act regarding use of information in the database.

**Highlighted Provisions:**

This bill:

▶ provides that a person may request that the division provide to the person his or her records that are in the controlled substance database;

▶ provides a procedure for a patient to correct erroneous information in the database;

▶ requires law enforcement to use a search warrant to gain database information related to a controlled substance investigation and requires specification of the person regarding whom the information is sought;

▶ authorizes a person whose information is in the database to obtain a list of persons who have had access to that person's information **§→ , except when the information is subject to an investigation ←§** ;

▶ states that a practitioner or pharmacist is not required to check the database regarding a person for whom the practitioner or pharmacist is prescribing or dispensing a prescription drug and provides there is no civil liability for not checking the database; and

▶ adds the standards of negligently or recklessly to the elements of the criminal offense of unlawfully releasing database information.

**Money Appropriated in this Bill:**

S.B. 119



59 type of identification and any identifying numbers on the identification;

60 (f) the name of the controlled substance;

61 (g) the quantity of the controlled substance prescribed;

62 (h) the strength of the controlled substance;

63 (i) the quantity of the controlled substance dispensed;

64 (j) the dosage quantity and frequency as prescribed;

65 (k) the name of the drug outlet dispensing the controlled substance; and

66 (l) the name of the pharmacist dispensing the controlled substance[~~;~~and].

67 [~~(m) other relevant information as required by division rule.~~]

68 (3) An individual whose records are in the database may obtain those records upon

69 submission of a written request to the division.

70 (4) (a) A patient whose record is in the database may contact the division in writing to

71 request correction of any of the patient's database information that is incorrect. The patient

72 shall provide a postal address for the division's response.

73 (b) The division shall grant or deny the request within 30 days from receipt of the

74 request and shall advise the requesting patient of its decision by mail postmarked within 35

75 days of receipt of the request.

76 (c) If the division denies a request under this Subsection (4) or does not respond within

77 35 days, the patient may submit an appeal to the ~~§~~ → [Utah State Board of Pharmacy, created in

78 Section 58-17b-201] Department of Commerce ←~~§~~ , within 60 days after the postmark date of the

78a patient's letter making a

79 request for a correction under this Subsection (4).

80 [~~(3)~~] (5) (a) The division shall make rules, in accordance with Title 63G, Chapter 3,

81 Utah Administrative Rulemaking Act, to establish the electronic format in which the

82 information required under this section shall be submitted to the division.

83 (b) The division shall ensure that the database system records and maintains for

84 reference:

85 (i) the identification of each individual who requests or receives information from the

86 database;

87 (ii) the information provided to each individual; and

88 (iii) the date and time that the information is requested or provided.

89 Section 2. Section **58-37f-301** is amended to read:

90 **58-37f-301. Access to database.**

91 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
92 Administrative Rulemaking Act, to:

93 (a) effectively enforce the limitations on access to the database as described in this  
94 part; and

95 (b) establish standards and procedures to ensure accurate identification of individuals  
96 requesting information or receiving information without request from the database.

97 (2) The division shall make information in the database and information obtained from  
98 other state or federal prescription monitoring programs by means of the database available only  
99 to the following individuals, in accordance with the requirements of this chapter and division  
100 rules:

101 (a) personnel of the division specifically assigned to conduct investigations related to  
102 controlled substance laws under the jurisdiction of the division;

103 (b) authorized division personnel engaged in analysis of controlled substance  
104 prescription information as a part of the assigned duties and responsibilities of their  
105 employment;

106 (c) in accordance with a written agreement entered into with the department,  
107 employees of the Department of Health:

108 (i) whom the director of the Department of Health assigns to conduct scientific studies  
109 regarding the use or abuse of controlled substances, if the identity of the individuals and  
110 pharmacies in the database are confidential ~~§~~ **[and de-identified]** ~~§~~ and are not disclosed in any  
111 manner to any individual who is not directly involved in the scientific studies; or

112 (ii) when the information is requested by the Department of Health in relation to a  
113 person or provider whom the Department of Health suspects may be improperly obtaining or  
114 providing a controlled substance;

115 (d) in accordance with a written agreement entered into with the department, a  
116 designee of the director of the Department of Health, who is not an employee of the  
117 Department of Health, whom the director of the Department of Health assigns to conduct  
118 scientific studies regarding the use or abuse of controlled substances pursuant to an application  
119 process established in rule by the Department of Health, if:

120 (i) the designee provides explicit information to the Department of Health regarding

245 pharmacist; and

246 (B) is available to consult with the mental health therapist regarding the information  
247 obtained by the mental health therapist, under this Subsection (2)(m), from the database;

248 (n) an individual who is the recipient of a controlled substance prescription entered into  
249 the database, upon providing evidence satisfactory to the division that the individual requesting  
250 the information is in fact the individual about whom the data entry was made;

251 (o) an individual under Subsection (2)(n) for the purpose of obtaining a list of the  
252 persons and entities that have requested or received any information from the database  
253 regarding the individual ~~§~~, except if the individual's record is subject to a pending or current  
253a investigation as authorized under this Subsection (2) ~~§~~ ;

254 [~~(p)~~] (p) the inspector general, or a designee of the inspector general, of the Office of  
255 Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in  
256 Title 63A, Chapter 13, Part 2, Office and Powers; and

257 [~~(q)~~] (q) the following licensed physicians for the purpose of reviewing and offering an  
258 opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter  
259 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

260 (i) a member of the medical panel described in Section 34A-2-601; or

261 (ii) a physician offering a second opinion regarding treatment.

262 (3) (a) (i) A practitioner described in Subsection (2)(f) may designate up to three  
263 employees to access information from the database under Subsection (2)(g), (2)(h), or (4)(c).

264 (ii) A pharmacist described in Subsection (2)(i) who is a pharmacist-in-charge may  
265 designate up to three employees to access information from the database under Subsection  
266 (2)(j).

267 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
268 Administrative Rulemaking Act, to:

269 (i) establish background check procedures to determine whether an employee  
270 designated under Subsection (2)(g), (2)(h), or (4)(c) should be granted access to the database;  
271 and

272 (ii) establish the information to be provided by an emergency room employee under  
273 Subsection (4).

274 (c) The division shall grant an employee designated under Subsection (2)(g), (2)(h), or  
275 (4)(c) access to the database, unless the division determines, based on a background check, that